

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 139 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

SHEKHANI SYNTHETICS INDUSTRIES

Versus

GUJARAT ELECTRICITY BOARD

Appearance:

MR PB MAJMUDAR for Petitioner
MR TUSHAR MEHTA for respondents

CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 16/01/97

ORAL JUDGEMENT

Rule. Mr. Tushar Mehta, learned Counsel waives service of notice of rule on behalf of the respondents.

At the request of learned Advocates appearing for the parties, the petition is heard today.

By means of filing this petition under Article 226 of the Constitution, the petitioner has prayed to quash and set aside revised bills which are produced at Annexures C & D to the petition by issuing a writ of mandamus or any other appropriate writ, direction or

order. In the alternative, it is prayed that the appellate committee of respondent no.1-Board be directed to hear the appeal of the petitioner without insisting for payment of any additional amount on the basis of revised bills.

The petitioner is a partnership firm and manufactures yarn. The petitioner is provided with electric energy and meter was installed for recording electric consumption. On November 29,1996 checking of meter was carried out and as it was suspected that the petitioner had committed theft of electric energy, the same was removed. Thereafter supplementary bills which are at Annexures C & D were issued to the petitioner. Feeling aggrieved by the said decision of the Board, the petitioner has preferred an appeal before the appellate committee of the respondent no.1-Board. As per the Conditions of Supply framed by the respondent no.1-Board an appeal can be entertained only if 30% amount of supplementary bill is deposited with the respondent no.1-Board. The petitioner has averred in the petition that the petitioner has deposited 15% amount of the supplementary bills on December 18,1996, but is not in a position to pay the remaining 15% amount of the supplementary bills by the time stipulated in order dated December 14,1996 which is passed by the Chief Engineer(Dist.) of the respondent no.1-Board. Under the circumstances, the petitioner has filed the present petition and claimed the reliefs to which reference is made earlier.

The petition was placed before Court for admission hearing on January 9,1997 and after hearing the learned Counsel for the petitioner, notice was issued making it returnable on January 13,1997. As the petitioner has already resorted to alternative remedy available to him under the Conditions of Supply framed by respondent no.1-Board, it would not be proper for the Court to grant relief claimed in para-10(b) of the petition. The petitioner has stated in detail the reasons as to why the petitioner could not deposit remaining 15% amount of the supplementary bills. Those reasons are mentioned in Para-7 of the petition. On the facts and in the circumstances of the case, I am of the opinion that interest of justice would be served if time to deposit the remaining 15% amount of the supplementary bills is extended till July 31,1997 and direction is issued to the appellate committee of respondent no.1-Board to decide the appeal filed by the petitioner after the remaining 15% amount of supplementary bills is deposited.

For the foregoing reasons, the petition partly succeeds. Time to deposit remaining 15% amount of supplementary bills is extended till July 31,1997. The appellate committee of respondent no.1-Board is directed to decide the appeal on merits after petitioner deposits remaining 15% amount of supplementary bills within the time extended by the Court. After deposit of remaining 15% amount of the supplementary bills, the appeal shall be decided as early as possible and preferably before October 31,1997. It is clarified that if the petitioner fails to deposit the remaining 15% amount of the supplementary bills, it would be open to the respondent no.1-Board to take action as permitted by law. Rule is made absolute to the extent indicated hereinabove,with no order as to costs.

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